

ORIGINAL

HOGAN & HARTSON
L.L.P.

DAVID L. SIERADZKI
COUNSEL
DIRECT DIAL (202) 637-6462
INTERNET DS0@DC2.HHLAW.COM

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COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

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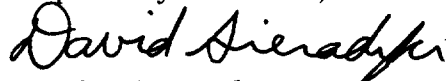
Re: **Federal-State Joint Board on Universal Service, CC Docket
No. 96-45; Western Wireless Corp. Petition for Preemption of
an Order of the South Dakota Public Utilities Commission**

Dear Ms. Salas:

I am writing on behalf of Western Wireless Corp. to inform you of several *ex parte* presentations regarding the proceedings referred to above. On Tuesday, October 12, 1999, Gene DeJordy, Executive Director of Regulatory Affairs, Western Wireless, my colleague Michele Farquhar, and I met with Kathy Brown, Chief of Staff, and Ari Fitzgerald, Legal Advisor to Chairman Kennard. On the same date, Mr. DeJordy and Ms. Farquhar met with Linda Kinney, Legal Advisor to Commissioner Ness, and Sarah Whitesell and Adam Krinsky, Legal Advisors to Commissioner Tristani.

On Wednesday, October 13, Mr. DeJordy, Ms. Farquhar, and I met with James Schlichting, Deputy Chief, Wireless Telecommunications Bureau and David Furth and David Krech of the Bureau staff. On the same date, Mr. DeJordy and Ms. Farquhar met with Rebecca Beynon, Legal Advisor to Commissioner Furchtgott-Roth; and Mr. DeJordy and I met with Peter Tenhula, Legal Advisor to Commissioner Powell. Today, Mr. DeJordy and Ms. Farquhar met with Dale Hatfield, Chief, Office of Engineering and Technology; and Ms. Farquhar and I met with Dorothy Attwood, Legal Advisor to Chairman Kennard. We used the attached handouts during the meetings, which focused on the designation of eligible telecommunications carriers. Please contact me if you have any questions.

Respectfully submitted,



David L. Sieradzki
Counsel for Western Wireless Corp.

Enclosures

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Magalie Roman Salas

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ccs: Kathy Brown
Dorothy Attwood
Ari Fitzgerald
Linda Kinney
Rebecca Beynon
Peter Tenhula
Sarah Whitesell
Adam Krinsky
Dale Hatfield
James Schlichting
David Furth
David Krech

Designation of Competitive Eligible Telecommunications Carriers

- Competition will develop in rural, high-cost areas *only* if wireless and other prospective entrants can be designated as eligible telecommunications carriers (“ETCs”) under Section 214(e) of the Act.
 - Western Wireless has requested designation in 13 states, but the process is moving slowly and unevenly (Minnesota: yes; South Dakota: no; Wyoming: dismissed for lack of jurisdiction; other states pending).
- **South Dakota Preemption Proceeding:** Western Wireless has asked the FCC to preempt the S.D. PUC’s denial of ETC status to Western Wireless as a barrier to entry, in violation of Section 253 of the Act.
 - Carriers that demonstrate the capability and commitment to provide supported service should receive ETC designation, and subsequently would receive the funding needed to provide universal service ubiquitously.
 - » Competitive carriers cannot be required to first provide ubiquitous universal service before they can qualify for ETC designation.
 - » After a carrier is designated as an ETC (not before), it becomes responsible for providing service throughout its designated service area.
- **Impact of Fifth Circuit Decision:** The Fifth Circuit (improperly) reversed the FCC’s correct decision that the text of Section 214(e) of the Act *itself* precludes state commissions from using extraneous criteria not found in the Act to evaluate requests for ETC designation.
 - The Fifth Circuit decision concerned statutory interpretation. It does not preclude the FCC from adopting policies and rules to implement Section 214(e), consistent with Supreme Court decision in *Iowa*, particularly because ETC designation affects the distribution of *federal* universal service funds.
 - State commissions must use only the statutory criteria to designate ETCs, and should designate competitive entrants as expeditiously as ILECs.
- **FCC Designation of ETCs Using Section 214(e)(6):**
 - FCC should designate carriers seeking to provide universal service to Native Americans on tribal lands (WW petition for Crow reservation).
 - FCC should designate CMRS carriers that are not subject to state regulation (WW petition for Wyoming; Bell Atlantic petition for Maryland & Delaware)

**Western Wireless Presentation on
Reform of High-Cost Universal Service System
October 1999**

- **Western Wireless seeks to provide universal service in competition with the ILECs in rural and high-cost areas**
 - Consumers in rural and high-cost areas should not be deprived of the benefits of wireless-wireline competition
 - Western Wireless may be able to offer basic telephony more cost-effectively in some high-cost and rural areas than ILECs
- **The FCC's universal service program must be pro-competitive and technologically neutral**
 - Consistent with Section 254, the FCC should eliminate *all* implicit subsidies, and should adhere to its commitment to fashion an explicit, portable universal service funding mechanism based on forward-looking costs
 - The FCC should not allow its federal universal service efforts to degenerate into merely assuring rate comparability or shifting dollars among states
- **Universal service support should be calculated at the wire center level**
 - A deaveraged, granular approach will best reflect costs and most accurately target support to those who need it
 - Calculating support at the wire center level will avoid creating implicit subsidies that discourage facilities-based entry in high-cost/rural areas
- **The FCC should adopt competitively neutral means to minimize the overall size of the federal universal service fund**
 - Use a tapered cost benchmark to target support and preserve affordability
 - Include wireless lines in calculating state support for universal service
 - Apply "hold-harmless" state-by-state, and for a limited time
 - Adopt the Wireless Cost Model to compute most cost-effective technology
- **Market forces will ensure that new entrants comply with Section 254(e), and no additional regulatory measures are needed**
- **The FCC must reform universal service and access charges in a manner that avoids replacing one implicit subsidy with another**